



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 | FAX (603) 271-2456



February 5, 2003

CERTIFIED MAIL # 7099 3400 0003 0564 6590
RETURN RECEIPT REQUESTED

City Council
City of Keene
3 Washington Street
Keene, NH 03431

Letter of Deficiency
WMD 03-04

**SUBJECT: 2003 Local Government Financial Test for Keene Municipal Solid
Waste Unlined Landfill Permit No. DES-SW-TP-93-011**

Dear Members of the Council:

The records of the Department of Environmental Services (Department) show that the Municipal Solid Waste Unlined Landfill (MSWLF) owned/operated by the City of Keene (City) continued to receive waste after October 9, 1991 and did not complete capping of the facility by October 9, 1994. As such, the City must comply with federal solid waste regulations that implement RCRA Subtitle D, codified in 40 CFR Part 258 which include requirements for closed landfills and landfill closure. The federal regulations include financial assurance requirements designated as Subpart G of Part 258.70, which call for owners and operators of MSWLFs to demonstrate that adequate funds will be readily available for the costs of closure, post-closure care, and corrective action for known releases associated with their facilities.

The Department is responsible for the oversight of the RCRA-D program in New Hampshire. Additionally, MSWLF units are required to provide financial assurance pursuant to the New Hampshire Solid Waste Rules Part Env-Wm 3100 (Rules), a requirement that can be satisfied in the same fashion as called for by the federal regulations.

The Department sent a letter dated January 16, 2003, (copy attached) informing the City that it was in violation of the Rules and 40 CFR Part 258.74. This letter outlined the steps necessary to bring the City into compliance, and sought submission of the necessary material not later than ten working days following receipt of that letter. As of this date, the Department has not yet received the required information to determine your City's financial assurance compliance status.

The above noted deficiencies can be corrected by 1) contacting Myrna Giroux of the Solid Waste Management Bureau at 271-2925 within 10 days of receipt of this letter, and providing an update on the status of meeting the financial assurance requirements; and 2) within thirty (30) days from receipt of this letter, submitting all of the previously requested information. In the event that the City does not update its financial assurance, the Department may take further action against the City, including issuing an administrative order requiring the deficiency to be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties.

Your prompt cooperation is appreciated. Should you have any questions regarding this matter, please do not hesitate to contact Myrna Giroux of the Solid Waste Management Bureau at 271-2925.

Sincerely

A handwritten signature in black ink, appearing to read "Richard S. Reed", is written over a large, bold, black "COPY" stamp.

Richard S. Reed
Administrator
Solid Waste Management Bureau

enclosure: copy of letter dated January 16, 2003

cc: Gretchen Rule, Administrator, OC Legal Unit
Patricia Juranty, SWMB (letter only)
Town File



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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January 16, 2003

CERTIFIED MAIL # 7099 3400 0003 0564 6569
RETURN RECEIPT REQUESTED

City Council
City of Keene
3 Washington Street
Keene, NH 03431

**RE: 2003 Local Government Financial Test for Keene Municipal Solid
Waste Unlined Landfill Permit No. DES-SW-TP-93-011**

Dear Members of the Board:

As you are aware, the City of Keene (City) has elected to satisfy its financial assurance requirements for the unlined landfill through the LOGO financial test. This letter serves to inform you that your facility has not complied with the New Hampshire Solid Waste Rules (Rules) Part Env-Wm 3100 and federal regulation 40 CFR Part 258.74. The Department of Environmental Services (Department) in a letter dated November 14, 2002, requested financial assurance documents. **As of this date only a portion of the required information has been received.**

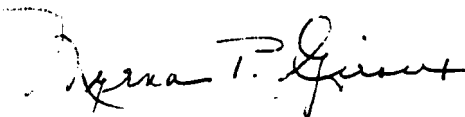
The following information is still needed so your City's financial assurance compliance status can be resolved:

- 1) Cost Estimates for the post-closure care of all facilities.
- 2) Audit Opinion from an independent certified public accountant (or appropriate State agency). This must include an unqualified opinion or the explanation of a qualified opinion. Qualified opinions are reviewed on a case-by-case basis and may still be deemed acceptable in the Department's determination of the City's ability to show financial assurance. The opinion must state that the audit was conducted in accordance with generally accepted auditing principles.
- 3) An Annual Financial Report (AFR). This report must contain a reference to the closure and post-closure care costs assured through the financial test. Disclosure must include the nature and source of closure and post-closure care requirements, the reported liability at the balance sheet date, the estimated total closure and post-closure care cost remaining to be recognized, the percentage of landfill capacity used to date and the estimated landfill life in years.

4) An Audit Opinion is also required to confirm ALL the information found in the CFO letter.

Please submit the requested information to my attention within ten (10) working days from receipt of this letter. Your prompt cooperation is appreciated. Should you have any questions regarding this matter, please do not hesitate to contact me at the Solid Waste Management Bureau at 271-2925.

Sincerely

A handwritten signature in black ink, appearing to read "Myrna P. Giroux". The signature is fluid and cursive, with a large initial "M" and "G".

Myrna P. Giroux
Program Specialist III
Solid Waste Management Bureau

cc: Duncan Watson, City of Keene
Richard S. Reed, SVMB
Patricia J. Juranty, SVMB
FA File